

## **ORDINANCE NO. O2014-010**

**AN ORDINANCE** of the City Council of the City of Tumwater, Washington, renewing immediate official zoning controls within the Brewery Neighborhood, maintaining Chapter 18.27 of Title 18 of the Tumwater Municipal Code known as the Former Brewery Interim Zone District, and providing a map of the interim official zoning controls; adopting findings and conclusions in support of the interim zoning renewal, approving a work plan for additional study by the City during the effective period of the interim land use controls; declaring an emergency and establishing an effective date.

**WHEREAS**, the City of Tumwater adopted Ordinance O2012-019 on January 8, 2013 that set forth interim regulations and a work program effective for one year; and

**WHEREAS**, the City of Tumwater adopted Ordinance No. O2014-001 on January 7, 2014 that renewed the interim regulations until midnight of July 7, 2014 pursuant to RCW 35A.63.220; and

**WHEREAS**, a second renewal of Interim Standards through 11:59 p.m. on August 31, 2014 will provide additional time for the City to complete ongoing work to adopt permanent development standards that reflect the input from the Community Visioning Project Final Report, the action plan, the public and existing land use plans; and

**WHEREAS**, the Brewery Neighborhood is the oldest part of the City and includes the site of the original settlement of the town of New Market, the Deschutes Falls and the site of the former Olympia Brewery; and

**WHEREAS**, the former Olympia Brewery site has been a fixture in the City of Tumwater for over 100 years; and

**WHEREAS**, SAB Miller Brewing Company closed the brewery in 2003 putting 400 employees out of work; and

**WHEREAS**, when the sale of the brewery property to a company intending to bottle the site's artesian water ended in bankruptcy, the property remained unoccupied and the buildings left in a deteriorating condition; and

**WHEREAS**, the condition of the brewery property has lead to an increased need for police services from persons trespassing and damaging the vacant buildings; and

**WHEREAS**, the City has a compelling interest in the protection of the health and safety of its residents, as well as enforcement of its zoning laws; and

**WHEREAS**, many Tumwater citizens hold very emotional connections to the former brewery and have expressed their desire that any future development must retain the cultural and historical significance that the site has contributed to the community for over a century; and

**WHEREAS**, the City of Tumwater Economic Development Plan recognizes the brewery site as a key economic development asset, important to both Tumwater and the broader region; and

**WHEREAS**, key properties within the neighborhood are for sale; and

**WHEREAS**, the history of the brewery property demonstrates a critical need for public involvement in the zoning process, including opportunity for community members to comment; and

**WHEREAS**, using a federal agency grant secured by Thurston Regional Planning Council (TRPC), the City and TRPC hired a consultant team to work with a citizen visioning group to develop an action plan for redevelopment of the former brewery property and the surrounding Brewery Neighborhood; and

**WHEREAS**, the consultant team and visioning group held five public meetings that resulted in more than 700 citizen comments; and

**WHEREAS**, the City of Tumwater and its citizens envision redevelopment of the brewery property into an active and special place that serves as an asset and focus for the community both on an economic and cultural level; and

**WHEREAS**, on October 4, 2011, after a six-month community visioning project that involved extensive community outreach, building and site infrastructure analysis, regulatory considerations, assessment of realistic redevelopment, the City Council adopted Resolution R2011-018 accepting the Community Visioning Project Final Report (Final Report); and

**WHEREAS**, the City Council adopted the current Comprehensive Plan on February 5, 2008 by Ordinance O2008-004; and

**WHEREAS**, the current Comprehensive Plan designation and zoning designation of Light Industrial does not allow the range of uses identified in the Final Report; and

**WHEREAS**, the City's Comprehensive Plan supports establishing and enforcing land use regulations to further a variety of goals, including ensuring compatibility between adjacent land uses, protecting public health and safety, and including public participation in land use actions; and

**WHEREAS**, the Final Report identifies a mix of possible uses for the brewery properties, including residential and retail as well as public and recreational spaces particularly along the Deschutes River corridor; and

**WHEREAS**, the Final Report identifies subareas within the brewery property as the Knoll, the Valley, and the Bluff, with each subarea presenting unique challenges and opportunities for redevelopment; and

**WHEREAS**, the Brewery Action Plan lists adoption of interim zoning as action A.2 as one of many actions to implement the Final Report; and

**WHEREAS**, existing permanent development regulations are not sufficient to protect the public interest regarding public health, safety and welfare; and

**WHEREAS**, a work plan for Comprehensive Plan amendments and permanent zoning controls has been developed and is attached as Exhibit "B"; and

**WHEREAS**, as part of the Brewery Neighborhood Planning Project as described in the City's Land Use Plan element of the Comprehensive Plan, the City Council finds it is in the best interests of the citizens of Tumwater to adopt official interim zoning controls and standards; and

**WHEREAS**, a public hearing was held on June 17, 2014, to accept public testimony and to consider the renewal of interim zoning controls; and

**WHEREAS**, final review and adoption of the permanent zoning requires additional Planning Commission and City Council meetings and is expected to take one additional month to complete;

**WHEREAS**, the Tumwater City Council finds that the enactment of this ordinance constitutes an emergency due to the fact that the properties are for sale and many permitted uses in the current Light Industrial zone are not compatible or consistent with the Community Visioning Project Former Brewery Property Final Report, the Brewery Action Plan, the Strategic Plan, and the City of Tumwater Economic Development Plan; and

**WHEREAS**, the City Council adopts the findings and conclusions herein and further finds that the interim official zoning controls support the health, safety, and welfare, and are in the best interests of the citizens of the City of Tumwater.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Renewal of Interim Standards.** The City Council hereby renews emergency interim official zoning controls for the Brewery Neighborhood as set forth in exhibit "A" attached hereto and incorporated herein by reference.

**Section 2. Findings of Fact and Conclusions.** The City Council hereby makes the following findings of fact and conclusions in support of the interim official zoning controls ordinance.

**Findings**

- A. The above recitals are hereby incorporated as findings of fact.
- B. The City of Tumwater Strategic Plan Goal #2 E. encourages the use of sub-area planning to revitalize the Brewery Neighborhood.
- C. The City of Tumwater Strategic Plan Goal #2 further encourages a mix of commercial, residential and community gathering uses with immediate reconsideration of the existing Light Industrial zoning to prohibit undesirable uses.
- D. The City of Tumwater Economic Development Plan in Goal #4 notes that the brewery properties are suitable for retail, entertainment, cultural destination, office and residential uses.
- E. The City of Tumwater Economic Development Plan in Goal #4 further states that inappropriate uses will be restricted such that the site develops in a way that recognizes its potential contributions to the local and regional economy and identity.
- F. The City of Tumwater Economic Development Plan in Goal #4 further states that the parcels east of Capitol Boulevard have the potential to once again serve as center of light industrial employment with its convenient rail access.
- G. The City of Tumwater Economic Development Plan in Goal #4 further states that the parcels west of Cleveland Avenue on the bluff above the Deschutes River Valley should be rezoned to prohibit incompatible uses with the existing residential development East of Cleveland Avenue.
- H. The City of Tumwater Comprehensive Land Use Plan, Section 9.10 states that the parcels west of Cleveland on the bluff may be appropriate for mixed-use or multi-family residential designations as ownership patterns evolve.

I. This emergency action is necessary as a result of the adoption of the Community Visioning Project Former Brewery Property Final Report, the adoption of the City of Tumwater Strategic Plan, the adoption of the City of Tumwater Economic Development Plan, the adoption of the Brewery Action Plan, the fact that all brewery properties are currently for sale and if developed with the properties existing Light Industrial Zoning may develop in ways not consistent or compatible with these four planning documents.

J. The Final Report for the Community Visioning Project is adopted in its entirety.

K. The staff report, work plan and all attachments are hereby adopted.

L. The Attorney General's Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property has been considered in its entirety. Using this guidance, it has been determined that there is no unconstitutional taking of private property as a result of this interim zoning control and/or emergency action.

N. Any conclusion that should be a finding is hereby adopted as a finding.

### **Conclusions**

O. Interim zoning will comply with the Growth Management Act by concentrating growth; providing affordable housing; promoting economic development; and furthering regional transportation goals by providing growth on a transit corridor.

P. Interim zoning will comply with Thurston County Countywide Planning Policies by encouraging infilling of areas already characterized by urban growth that have the facilities and public services to serve urban development; and supporting recruitment of environmentally sound and economically viable economic development that helps diversify and strengthen local economies.

Q. Interim zoning will comply with the City's Comprehensive Plan encouraging the highest intensity growth to locate within the City's corporate limits; concentrating non-residential land uses in integrated centers in order to insure convenient access and prevent strip development; and locating commercial centers close to arterial routes, freeway access, and rail facilities.

R. Interim zoning will comply with the City's Strategic Plan by prohibiting zoning for uses no longer consistent with the Strategic Plan such as

industrial uses for the portion of the properties identified as The Knoll and some commercial/retail uses in the The Valley.

S. Interim zoning will comply with the City's Economic Development Plan by restricting inappropriate uses so that the brewery properties are developed in a way that recognizes its potential contribution to the local and regional economy and identity.

T. Interim zoning will prohibit incompatible and undesirable uses during the period required for formal comprehensive plan and zoning code amendments.

U. Interim zoning will encourage appropriate uses to aid in marketing of the properties.

V. Interim zoning will protect the public health, safety and welfare of Tumwater citizens.

W. The City Council has adopted a work program for the identified area consistent with the Comprehensive Plan.

X. Any Finding that should be a Conclusion is hereby adopted as a Conclusion.

**Section 3. Adoption of Work Plan.** The Work Plan attached as Exhibit "B" is hereby incorporated and adopted.

**Section 4. Duration.** This ordinance shall be in effect through 11:59 p.m. on August 31, 2014, and may be renewed as provided for by law.

**Section 5. Public Hearing.** As required by RCW 35A.63.220 and 36.70A.390, a public hearing was held on June 17, 2014.

**Section 6. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 7. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

**Section 8. Declaration of Emergency – Effective Date.** For the reasons set forth above, and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this ordinance take

effect immediately upon its passage by a majority plus one of the whole membership of the Council in order to protect the public health, safety, property and general welfare. This ordinance shall take effect and be in force immediately upon passage by the City Council.

**Section 9. Alternate Effective date.** If this Ordinance does not become effective immediately as provided in Section 8, then this Ordinance shall become effective thirty days after passage, approval and publication as provided by law.

ADOPTED this 17<sup>th</sup> day of June, 2014.

CITY OF TUMWATER



Pete Kmet, Mayor

ATTEST:



Melody Valiant, City Clerk

APPROVED AS TO FORM:



Karen Kirkpatrick, City Attorney

Published: 6-20-2014

Effective Date: 6-17-2014

**EXHIBIT "A"**  
**CHAPTER 18.27**

**FB FORMER BREWERY INTERIM ZONE DISTRICT**

**18.27.010 Intent.**

The intent of the former brewery (FB) interim zone is to provide for a mix of uses consistent with the City's Economic Development Plan and the Final Report for the Community Visioning Project for the Former Olympia Brewery. The former brewery interim zone district consists of the following subdistricts (see Figure 18.27.010).

A. Knoll. The location overlooking the Deschutes River, with high visibility from the freeway and close proximity to the Historic District, makes this a unique economic and community development opportunity. A mixture of uses is desirable to create a vibrant sense of place that appeals to pedestrians and creates a community focal point for Tumwater and the surrounding area. A broad mix of uses is allowed in this subdistrict, including retail, personal and professional services, restaurants, educational, entertainment, lodging, community facilities and residential.

B. Valley. Existing industrial buildings located adjacent to rail access make this area ideal for light industrial uses that do not create compatibility issues with other land uses, and for certain kinds of commercial uses that are most appropriately located as neighbors of industrial uses.

C. Bluff. Vacant land overlooking the valley and in close proximity to residential development to the south and east makes multi-family residential a possibility. A minimum net density of nine units per acre and a maximum of fifteen units per acre will apply to promote the efficient use of land and to provide a density pattern that will support public transit in the long-term.

**18.27.020 Permitted Uses.**

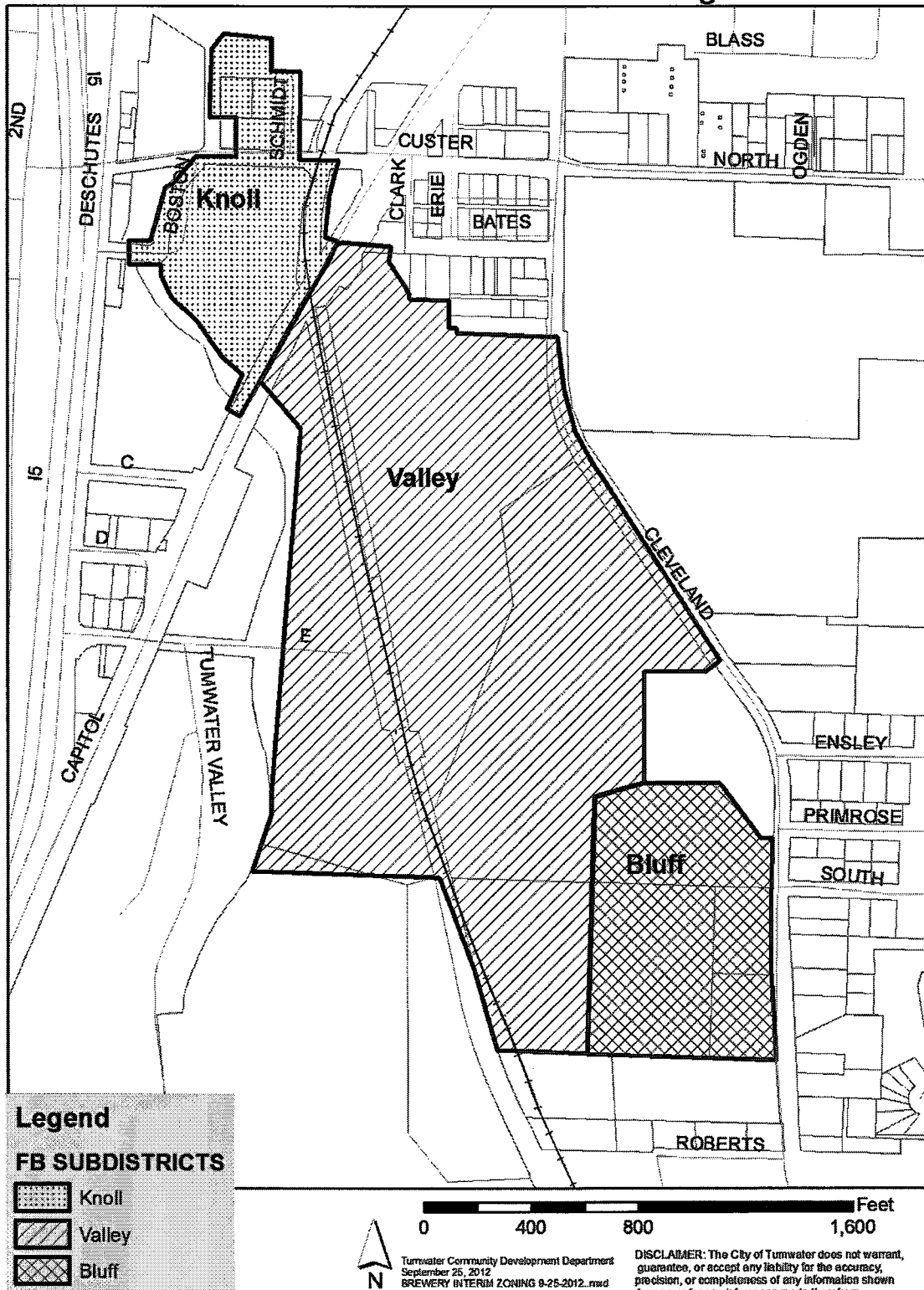
Permitted uses in the FB interim district are as follows:

**A. Knoll**

1. Development consisting of two (2) or more of the following uses, provided that each use shall occupy a minimum of twenty (20) percent of the gross floor area of the project.
  - a. Breweries, wineries, distilleries;
  - b. Retail sales;
  - c. Restaurants;
  - d. Personal/professional services;
  - e. Motels, hotels;
  - f. Museums, library, art gallery;
  - g. Residential (minimum 14 DU's per acre);
  - h. Senior housing facilities;
  - i. Parks/open space and recreation facilities;
  - j. Community gardens;
  - k. Farmers markets;
  - l. Parking structures.
  - m. Support facilities;



Figure 18.27.010



**B. Valley**

1. Wholesaling, manufacturing, assembling, repairing, fabricating and warehousing (nondistribution), provided warehousing is for product for use in or production resulting from onsite manufacturing;

2. All uses having to do with buying, selling, and personal and professional services or offices, or of a general commercial nature;

3. Recreational facilities;

4. Parks and recreation facilities;

5. Planned unit developments not including residential uses;

6. Transit facilities;

7. Motorsports facility – indoor;

8. Electric vehicle infrastructure;

9. Community gardens;

10. Farmers markets;

11. Indoor Agriculture;

12. Support facilities.

**C. Bluff**

1. Multifamily dwellings;

2. Single-family attached dwellings, including but not limited to townhouses and rowhouses,

3. Parks, trails, open space areas, and other related recreation facilities;

4. Support facilities;

5. Planned unit developments;

6. Family child care home; child mini-day care center, subject to TMC

Chapter 18.52;

7. Bed and breakfasts;

8. Community gardens;

9. The housing, care and keeping of animals consistent with the requirements of TMC Chapter 6.08.

**18.27.030 Accessory Uses**

**A. Knoll**

1. Home occupations;

2. Cocktail lounges;

3. Accessory wireless communications antenna;\*

4. Parking lots;

5. Preschools;

6. Off-street parking and loading.

**B. Valley**

1. Living or residential quarters as an accessory use including, but not limited to, security guards' quarters where such quarters are customarily provided for security and/or insurability of the premises and other residential uses directly related to the operation of the primary permitted use;

2. Off-street parking and loading;

3. Energy systems;

4. Accessory wireless communication antenna.\*

**C. Bluff**

1. Storage sheds, toolsheds, greenhouses;
2. Private parking garages or carports;
3. Home occupations, subject to TMC 18.42.030;
4. Noncommercial recreational structures which could include but are not limited to swimming pools and recreational ball courts;
5. Energy systems;
6. Accessory dwelling unit, in accordance with the provisions of TMC 18.42.010;
7. Boardinghouses and roominghouses;
8. Accessory wireless communication antenna;\*
9. Electric vehicle infrastructure.

\*Wireless communication facilities are subject to Federal Aviation Administration (FAA) standards and approval if they apply, and furthermore are subject to provisions for wireless communication facilities in TMC Chapter 11.20, Communication Antennas and Towers.

**18.27.40 Density Regulations**

**A. Site Area.** No minimum, except adequate space must be provided for required parking, yards and landscaping. All residential developments in the Bluff Subdistrict must meet the following density requirements:

1. Minimum: nine dwelling units per acre;
2. Maximum: fifteen dwelling units per acre, except that any density greater than fourteen dwelling units per acre shall be obtained only by purchase of transfer of development rights in accordance with TMC Chapter 18.57.

**B. Density Calculation.** The calculation of the density requirements in subsection A of this section is based on the portion of the site devoted to residential and associated uses (e.g., dwelling units; private community clubs, open space; stormwater detention, treatment and infiltration). The following land is excluded from density calculations:

1. Land that is required to be dedicated for public use as open space, right-of-way, or land on which development is prohibited by TMC Title 16, Environment, and land that is to be used for private roads. Provided, that portion of open space/park areas that consists of stormwater facilities and that are designed for active and/or passive recreational purposes in accordance with the drainage design and erosion control manual for Tumwater shall not be excluded from density calculations;
2. Land that consists of lots devoted to uses other than residential and associated uses, including but not limited to churches, schools, and support facilities (except for stormwater detention, treatment and infiltration facilities).

**C. Structure height and setbacks: See Figure 18.27.030**

Figure 18.27.030 Maximum height and minimum setbacks

Subdistrict	Height	Front Setback	Side Setback	Rear Setback
Knoll	75 Feet	No minimum	No minimum	No Minimum
Valley	50 Feet	20 Feet	10 Feet	10 Feet
Bluff	40 Feet	10 Feet <sup>1</sup>	10 Feet <sup>2</sup>	10 Feet

1. Driveways in front yards for single-family dwellings must be a minimum of eighteen feet in length as measured along the shortest edge of the driveway starting from the front property line.

2. Side yards for single-family attached dwellings may be reduced to zero where attached.

**D. Lot coverage**

No maximum, except adequate space must be provided for required parking, yards, landscaping and open space.

**E. Open storage**

Open storage is prohibited. Long-term parking of operational company cars, light trucks, and vans within parking lots shall not be construed to be open storage.

**F. Signs**

Requirements of Chapter 18.44 TMC shall be met.

**G. Off-street parking**

Requirements of Chapter 18.50 TMC shall be met.

**H. Fencing and landscaping**

Requirements of Chapters 18.46 and 18.47 TMC shall be met.

**I. Design review guidelines**

Requirements of Chapter 18.43 TMC shall be met.

**J. Pedestrian access (applies to Knoll and Bluff Subdistricts only)**

1. An on-site pedestrian circulation system that links the street and the primary entrance(s) of the structure(s) shall be provided. Sidewalks or pedestrian ways must connect the required pedestrian system to existing pedestrian systems on adjacent developments if adequate safety and security can be maintained. Convenient pedestrian access to transit stops shall be provided.

2. Sidewalks, walkways or pedestrian systems shall be required and constructed according to the City of Tumwater Development Guide.

3. Where the pedestrian circulation system crosses driveways, parking areas, and loading areas, it must be clearly identifiable, through the use of elevation changes, speed bumps, or a different paving material as specified in the City of Tumwater Development Guide.

4. Lighting for parking lots and pedestrian ways shall be provided to ensure personal safety. Such lighting shall be integrated into the architectural character both in terms of illumination and fixtures. Lighting for parking lots shall meet the requirements of

TMC 18.50.060.J. Lighting for pedestrian ways shall be shielded and be directed downward and inward or other techniques may be utilized to minimize impacts on off-site uses.

**K. Open Space/Park Area.** For developments in the Bluff Subdistrict in which more than one-half the dwelling units are multifamily units, a minimum of fifteen percent of the gross site area shall be set aside and utilized as open space/park area for use and enjoyment of future residents. For developments in which more than one-half the dwelling units are single-family and/or duplex units (including mobile home parks), a minimum of ten percent of the gross site area shall be set aside. Such open space/park area shall at a minimum meet the following standards:

1. For the purpose of calculation of the open space/park requirement, the open space/park area shall be separate and distinct from required yards, setbacks and landscaped areas, but may include areas of native vegetation that are allowed to fulfill the landscaping requirements of TMC Chapter 18.47. Open space/park areas may also include wetlands and their buffers, other critical areas, and stormwater facilities that are designed for active and/or passive recreation opportunities in accordance with the drainage design and erosion control manual for Tumwater.

2. All open space/park areas must include any two or more facilities for active and/or passive recreation from the lists below. For open space/park areas within residential developments, at least one of the required recreation facilities must be from the list of active recreation facilities (this area may include stormwater facilities that are designed for active and/or passive recreation opportunities in accordance with the drainage design and erosion control manual for Tumwater).

Active Recreation Facilities.

- a. Children's play equipment, such as slides, swings, and play structures.
- b. A paved hard court for activities such as basketball, tennis, pickleball, etc.
- c. A flat, open lawn area that may serve as a ball field for active play.
- d. Other active recreation facility if approved by the community development director upon consultation with the Tumwater parks and recreation director.

Passive Recreation Facilities.

- a. Facilities for walking, such as trails, benches, etc.
- b. Picnicking facilities, such as picnic tables, shelters, etc.
- c. Public plazas.
- d. Year-round water features such as a fountain, pond, stream, etc. These water features may be incorporated as part of a stormwater facility designed in accordance with the drainage design and erosion control manual for Tumwater.
- e. Other passive recreation facility if approved by the community development director upon consultation with the Tumwater parks and recreation director.

3. The open space/park area shall have convenient access for residences/employees of the development and shall be consolidated to provide maximum access, visibility, usability, minimization of impacts to residential uses, and ease of maintenance. The requirement that the open space/park area be consolidated may be waived by the director of community development upon a finding that the residents of the development would receive a greater benefit if the required open space/park area were provided in another configuration due to the unique topographic conditions or fish and wildlife habitat values of the site.

4. The open space/park area shall be designed and placed in consideration of existing and potential open space/park areas on adjacent parcels to consolidate or provide future opportunities for consolidation of neighborhood open space areas.

5. Except where removal is required to meet active recreation requirements in this chapter, existing trees and significant vegetation shall be retained in open space/park areas unless an alternate landscaping plan for such areas is required or approved by the development review committee.

6. Cash, or like value of land area and improvements within the neighborhood parks planning area the site is located, may be donated to the city to fulfill the requirements of this section. The amount of cash required will be determined using a formula based on the cost of meeting the adopted level of service for neighborhood parks in the Tumwater parks and recreation plan.

7. Open space/park areas shall be held in single ownership where such ownership assumes full responsibility for maintenance and operation, or held in common ownership by all of the owners in the development area through a homeowners' association or similar organization. The city as a condition of approval may choose to accept dedication, or the maintenance and operation responsibilities for the area, when the area to be dedicated is one or more of the following.

- a. Greater than five acres.
- b. Adjacent to an established or future city park or school grounds.
- c. Includes access to a body of water, wetland, important fish/wildlife habitat, or other environmentally sensitive area.
- d. If the city determines it is in the public interest to accept public dedication.



## **EXHIBIT "B"**

# **Former Brewery Properties Comprehensive Planning and Zoning Work Program**

### **June 2014**

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- Planning Commission to hold worksessions on June 10<sup>th</sup> and June 24<sup>th</sup> to consider public testimony taken at the public hearing on June 3<sup>rd</sup>. Zoning work for the former brewery properties is being coordinated with the zoning/implementation phase of the Brewery District Planning Project
- Planning Commission is scheduled to make a recommendation to City Council on permanent zoning for the former brewery properties on June 24<sup>th</sup>
- SEPA review will be completed by July 8<sup>th</sup>

### **July 2014**

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- City Council will review and consider adoption of Comprehensive Plan and Zoning Code amendments for the former brewery properties on July 15<sup>th</sup>

### **August - September 2014**

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- Interim zoning is effective through 11:59 p.m. on August 31<sup>st</sup>
  - Permanent zoning will become effective on September 1<sup>st</sup>
-